

DELAWARE HEALTH AND SOCIAL SERVICES

Division of Management Services 1901 N. DuPont Highway New Castle, DE 19720

REQUEST FOR PROPOSAL NO. HSS-11-048

FOR

Recovery Audit Contractor (RAC)

FOR

Division of Medicaid and Medical Assistance Post Office Box 906, Lewis Building 1901 North DuPont Highway New Castle, DE 19720

Deposit Waived Performance Bond Waived

March 21, 2011

11:00 A.M. LOCAL TIME

Written questions will be accepted, in lieu of the pre-bid meeting, in accordance with the instructions presented in section VI. D of this document.

REQUEST FOR PROPOSAL # HSS-11-048

Sealed proposals for Recovery Audit Contractor for the Division of Medicaid and Medical Assistance, P.O Box 906, Lewis Building, 1901 North DuPont Highway, New Castle, DE 19720, will be received by the Delaware Health and Social Services, Herman M. Holloway Sr. Campus, Procurement Branch, Main Administration Building, Sullivan Street, Second Floor, Room #257, 1901 North DuPont Highway, New Castle, Delaware 19720, until March 4, 2011 at 11:00 a.m. at which time the proposals will be opened and read.

All RFPs can be obtained online at http://bids.delaware.gov.

NOTE TO BIDDERS: Your proposal <u>must include the forms in Appendices A, B, C, and D signed</u> and all information on the forms complete.

NOTIFICATION TO BIDDERS

Bidder shall list all contracts awarded to it or its predecessor firm(s) by the State of Delaware; during the last three years, by State Department, Division, Contact Person (with address/phone number), period of performance and amount. The Evaluation/Selection Review Committee will consider these Additional references and may contact each of these sources. Information regarding bidder performance gathered from these sources may be included in the Committee's deliberations and factored in the final scoring of the bid. Failure to list any contract as required by this paragraph may be grounds for immediate rejection of the bid."

There will be a ninety (90) day period during which the agency may extend the contract period for renewal if needed.

If a bidder wishes to request a debriefing, they must submit a formal letter to the Procurement Administrator, Delaware Health and Social Services, Main Administration Building, Second Floor, South Loop, 1901 North DuPont Highway, Herman M. Holloway Sr., Health and Social Services Campus, New Castle, Delaware 19720, within ten (10) days after receipt of "Notice of Award". The letter must specify reasons for the request.

IMPORTANT: ALL PROPOSALS MUST HAVE OUR RFP NUMBER (HSS 11 048) ON THE OUTSIDE ENVELOPE. IF THIS NUMBER IS OMITTED YOUR PROPOSAL WILL IMMEDIATELY BE REJECTED.

FOR FURTHER BIDDING INFORMATION PLEASE CONTACT:

BRUCE KRUG
DELAWARE HEALTH AND SOCIAL SERVICES
PROCUREMENT BRANCH
MAIN ADMIN BLD, SULLIVAN STREET
2ND FLOOR -ROOM #257
1901 NORTH DUPONT HIGHWAY
HERMAN M. HOLLOWAY SR. HEALTH AND
SOCIAL SERVICES CAMPUS
NEW CASTLE, DELAWARE 19720
PHONE: (302) 255-9290

IMPORTANT: DELIVERY INSTRUCTIONS

IT IS THE RESPONSIBILITY OF THE BIDDER TO ENSURE THAT THE PROPOSAL HAS BEEN RECEIVED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES BY THE DEADLINE.

The issuance of this Request for Proposals (RFP) neither commits the Delaware Department of Health and Social Services, Division of Medicaid and Medical Assistance to award a contract, to pay any costs incurred in the preparation of a proposal or subsequent negotiations, nor to procure or contract for the proposed services. The Division reserves the right to reject or accept any or all proposals or portion thereof, to cancel in part or in its entirety this Request for Proposals, or to delay implementation of any contract which may result, as may be necessary to meet the Department's funding limitations and processing constraints. The Department and Division reserve the right to terminate any contractual agreement with fifteen (15) days notice in the event that the State determines that State or Federal funds are no longer available to continue the contract.

Availability of Funds

Funds are available for the selected vendor to provide services in the area of Recovery Audit Contractor. Contract renewal is possible for up to three additional years contingent on funding availability and task performance.

<u>Further Information</u>

Inquiries regarding this RFP should be addressed to:

Denise Dugan
Supervisor, Surveillance & Utilization Review Unit
Division of Medicaid and Medical Assistance
P.O. Box 906, Lewis Building
1901 North DuPont Highway
(302) 255-9646

E-mail Address: <u>denise.dugan@state.de.us</u>

Restrictions on Communications with State Staff

From the issue date of this RFP until a contractor is selected and the selection is announced, bidders are NOT allowed to contact any Division of Medicaid and Medical Assistance staff, except those specified in this RFP, regarding this procurement. Contact between bidders and Division of Medicaid and Medical Assistance is restricted to emailed questions concerning this proposal. Questions must be submitted in writing and will be addressed in writing.

Questions are due by **February 18, 2011.** The complete list of questions and their answers will be posted on the internet at http://bids.delaware.gov.

REQUEST FOR PROPOSAL FOR RECOVERY AUDIT CONTRACTOR (RAC) FOR

Division of Medicaid and Medical Assistance

I. INTRODUCTION

A. Background

The Affordable Care Act is comprised of two bills, the Patient Protection and Affordable Care Act (PPACA), P.L. 111-148, enacted on March 23, 2010 and the Health Care and Education Reconciliation Act (HCERA), P.L. 111-152, enacted on March 30, 2010. Section 641 I of the ACA expands the Recovery Audit Contractor (RAC) program and requires States to employ RACs. The purpose of implementing a RAC program is to reduce Medicaid improper payments through the efficient detection and collection of overpayments and the identification of underpayments.

The Division of Medicaid and Medical Assistance (DMMA) of the Department of Health and Social Services is responsible for administering the Medicaid Program, which includes the responsibility of safeguarding the program by identifying and collecting unnecessary or inappropriate payments for services. The mission of DMMA is to improve health outcomes by ensuring that the highest quality medical services are provided to the vulnerable populations of Delaware in the most cost effective manner. The purpose of this contract is to support DMMA in this mission.

Delaware's Medicaid population stands at 194,000 as of December 31, 2010. Approximately 154,000 Medicaid members are enrolled in two commercial Managed Care Organizations under contract with DMMA. The medical services for the remaining 40,000 Medicaid members are reimbursed directly by DMMA under a Fee-For-Service (FFS) arrangement. The FFS population consists of approximately 7,500 individuals who have selected a FFS/managed option in lieu of a commercially managed plan. The remainder of the FFS population consists of individuals who receive Long Term Care services or have Medicare or CHAMPUS.

Pharmacy is carved out from the Managed Care Organizations' benefit package and is covered under FFS. In State Fiscal Year 2010 (July 1, 2009 – June 30, 2010) DMMA expended \$237 million in state funds to deliver primary, acute and long-term-care services to its FFS population. FFS Provider policy manuals can be found on the Delaware Medical Assistance website at http://www.dmap.state.de.us/downloads/manuals.html.

B. Project Goals

The Division of Medicaid and Medical Assistance is requesting proposals for auditing and analytical services to assist the Division of Medicaid and Medical Assistance in identifying and recovering overpayments and identifying underpayments made to Medicaid.

II. SCOPE OF SERVICES

DMMA is interested in enhancing and expanding its current and on-going Medicaid claims review and auditing process. The focus of the expansion will be a post-payment review of Medicaid claims from providers in the following high risk areas for overpayments, such as:

- Dental Services
- Hospice
- Pharmacy
- Outpatient Hospital Services
- Inpatient Hospital Services
- Nursing Homes
- Physical Therapy/Occupational Therapy
- Durable Medical Equipment
- Home Health Services

The look back period for reviewing claims will be three years from the date of the onset of the review.

Requirements:

A. Required components of the analysis, audit and recovery process

The contractor must address the following components in the analysis, audit and recovery process:

- Policy review process, including validation of results;
- Process for data mining to target providers and claims for review, identify potential coding and billing errors, and to provide trends and patterns analysis;
- Provider medical record request process that must include the process for submission of electronic records;
- Aspects of clinical and coding review of medical records including medical necessity;
- Reporting of results;
- Process for communication of results to providers and resolution of disputes prior to the appeals process;
- Describe the bidder's provider dispute/appeal process proposed for this Contract;

- Provide data, as well as witness testimony if required, for any investigation, appeal or court proceedings emanating from a review of a Medicaid provider by the contractor;
- Process that includes how the provider/claims review will be conducted, support recovery of overpayments and how provider appeals will be forestalled;
- All written material, including but not limited to reports and letters must be approved by the State;

DMMA reserves the rights to limit, control, or exclude certain categories of recovery, recipients, and/or medical services from the Contractor's work.

Bidder submission requirements for analysis audit and recovery process:

The bidder shall be required to describe the approach that they would take to identify and audit the high risk claims with the potential for Medicaid overpayment collections. The description of the approach shall include at a minimum all required components that are listed above. The bidder shall also submit examples of audit templates, protocols and time frames for this process. The bidder shall describe how it will conduct the provider/claims review, support recovery of overpayments and forestall provider appeals.

The description should also include an estimation of the number of on-site audits and desk reviews it could complete within the 12-month period following the start-up phase and a list of criteria by which the Contractor would identify candidates for provider on-site audits and desk reviews.

B. <u>Provider Education and Customer Service Requirements</u>

Contractor shall maintain quality customer service to the providers throughout the Contract.

- 1. Contractor shall have subject matter experts available to talk directly with providers regarding any issues or questions about the recovery demand letters they receive.
- DMMA and Contractor shall identify trends or pervasive provider issues that require a broader educational effort statewide. Contractor shall assist the DMMA in developing fraud, misuse and waste-specific educational materials that may be published in the Medicaid Quarterly Bulletin through the fiscal agent. All educational material developed shall be the property of the DMMA.
- 3. Contractor shall participate in in-person and/or teleconference meetings with provider groups, health care associations and others as designated by DMMA to review the Contractor's methodologies, results and recommendations. Meetings shall be scheduled at the DMMA's discretion, with reasonable efforts made to accommodate any scheduling requests from Contractor

4. Contractor shall maintain a, toll-free telephone number for providers to access during the Contract and run out periods, during the hours of 8 am to 5 p.m. Eastern Standard Time on all weekdays, except on national and state holidays recognized and observed by the State of Delaware.

<u>Bidder requirements for provider education and customer service:</u>
The bidder must describe processes that will be used to communicate methodologies, results and recommendations to provider groups, health care associations and others.

C. Provider Experience

result of the review.

The contractor shall have experience performing data analysis and audits.

The contractor shall have experience performing onsite and desk reviews for at least one other State or Federal Agency client over the past three years.

The bidder requirements to demonstrate experience with data analysis and audits:

The bidder must provide an in depth description of its':

- Understanding of state Medicaid programs, preferably the Delaware Medicaid program;
- ii. Understanding of Medicaid program integrity issues and risk areas for waste, fraud and abuse;
- iii. Experience / Success in Medicaid data analysis to identify Medicaid overpayments and improper billings;
- iv. Experience / Success in auditing Medicaid claims and reviewing medical records to determine overpayments and/or improper payments;
- v. Experience / Success in overpayment recovery; and
- vi. Experience / Success in negotiating with providers and defending recovery actions in the appeals process.

The bidder must provide examples of a summary of Health Care provider on-site and desk audits it has completed for at least one other State or Federal Agency client over the past three years. These summaries should include:

Type of provider reviewed; reason for selecting the provider; scope of the review (time frame, type of claim and services audited); and dollars recovered as a

The bidder will state the number of years' prior experience your firm has in addressing Medicaid program integrity issues and auditing Medicaid claims. Describe in detail your firm's experience relevant to any projects of the type, size, and scope of that described in this RFP.

D. Staffing Requirements

The contractor must staff this project with or have access to qualified professional including but not limited to clinicians experience in the provider types to be reviewed, registered nurses, auditors, certified coders, and health care analysts. The contractor must have access to physicians, dentists, other health care professionals and subject matter experts for claims review and to determine medical necessity.

Key personnel requirements for this project include the following:

Project Director: Individual with relevant experience in managing complex projects, systems and personnel for at least ten (10) years, and relevant experience in conducting health care audits for at least five (5) years. Experience and working knowledge in managing and conducting audits of Medicaid providers is preferred. The Project Manager shall possess a Bachelor's degree or higher. General knowledge of the Medicaid program, particularly coverage and payment rules are required. A Certified Public Accountant in good standing is preferred. The project director must have a working knowledge of the Generally Accepted Government Auditing Standards.

Audit Manager: Individual with relevant experience personally conducting audits of health care providers for at least ten (10) years and directly supervising the work of other health care auditors for at least five (5) years. The Audit Manager shall have detailed knowledge of the Generally Accepted Governmental Auditing Standards and have at least three (3) years experience in conducting audits under those standards. The Audit Manager shall have working knowledge of the Medicaid program and have detailed knowledge of Medicaid coverage, reimbursement, policies and regulations. A Bachelor's degree or higher in Accounting or Auditing is required. The Audit Manager shall be a Certified Public Accountant in good standing.

Medical Director: Individual with relevant Medicaid experience in the health insurance industry, with a utilization review firm or a health care claims processing organization in a role that involved developing coverage or medical necessity policies and guidelines. The Medical Director must also meet the following requirements:

- Education resulting in receipt of a doctor of medicine or doctor of osteopathy degree;
- A current, active, and unrestricted license (in one or more United States licensing jurisdictions) to practice medicine as a doctor of medicine or doctor of osteopathy;
- Board-certification in a medical specialty and at least three (3) years of medical practice as a board-certified physician;
- Prior work experience in the health insurance industry, a utilization review firm, or another health care claims processing organization in a role that involved developing coverage or medical necessity policies and guidelines;

- Public relations experience, preferably working with physician groups, beneficiary organizations, and/or congressional offices; and
- General knowledge of the Medicaid program, particularly the coverage and payment rules.

Medical Review/Utilization Manager: Individual with recent and relevant supervisory experience in medical utilization review. Education (required): The Medical Review Manager shall possess a bachelor's degree in nursing and/or social or health service with an active Registered Nurse license. A working knowledge of conducting Medicaid provider audits is necessary. The MR/U Manager shall possess the ability and skills to appropriately interpret State Medicaid regulations and policies. A minimum of three (3) years experience is required.

Statistician: Individual with relevant and recent experience in the use of statistics to support corporate business information needs; experience in the use of statistics to detect fraud, the use of fuzzy logic, the development of mathematical models, neural networks and data mining methods of analysis. Knowledge of health care information and claims data (ICD-9 codes (and all successors), physician specialty codes, survey and certification data etc.) is also required.

Technical Point of Contact for Information Technology: Individual with relevant **IT** experience who can initiate, focus, and facilitate ongoing communications and information exchange with regard to telecommunications. This individual should have Medicaid systems experience such as Medicaid Management Information Systems (MMIS) or have experience working with a Medicaid claims data system (three (3) years experience preferred).

Bidder submission staffing requirements:

The bidder shall describe how it obtains subject matter experts for reviews and how it intends to staff this project, including the number and professional certifications of each individual who will be involved and must indicate whether the individual is working on this project on a part time or full time basis.

The bidder shall address how it will meet the key personnel requirements in the proposal.

E. Reporting/meeting Requirements

The Contractor will be required to submit the following:

- 1. Immediate Reporting of suspicions of fraud.
- 2. Monthly Reporting
 Comprehensive report in written and electronic format that includes but is not limited to:

- Number of provider reviews opened, pending and completed for the current month, year to date, and averages per month,
- Fraud and/or abuse issues identified.
- Overpayment amounts identified in the previous month, Contract to date, and average amount per month,
- Means by which overpayments were identified,
- Actions taken,
- Recoupment amount collected in the previous month, Contract to date, and average amount per month,
- Type of provider education referred to fiscal agent for completion,
- Number of cases before DMMA awaiting approval,
- Number of cases recommended for referral to MFCU,
- Number of appeal notifications received,
- Case status of appeals, and
- Discussion that may include but is not limited to: problems encountered, provider specific or statewide trends noted, and regulation revisions needed.
- 3. Weekly conference calls

Contractor's Project Manager shall conduct weekly strategy/problem solving conference calls with DMMA's Contract Manager and other designated staff to commence when the Contract is signed. Contractor and DMMA shall mutually agree when conference call schedule shall change.

4. Quarterly Meetings

Contractor shall conduct in conjunction with DMMA quarterly meetings to present the quarterly report, review tracking activities and discuss issues, problems, suggested solutions, relevant findings, trends, special study projects, and enforcement challenges due to regulation or policy weaknesses.

5. Quarterly Reports

Each fiscal quarter, Contractor shall prepare a status report containing summarized data from the monthly reports, as well as any aberrant issues identified. This report shall be presented and discussed at the quarterly meetings.

6. Annual Reports

An annual report shall be submitted to DMMA after the end of the Contract year but no later than 60 days. The annual report shall contain a summary of the information contained in the monthly and quarterly reports as well as conclusions and recommendations to the Agency. At least 30 days prior to the report due date, the Agency shall provide the Contractor with any other specific requested subject matter to be addressed in the annual report.

- 7. Final Executive Summary Report
- 8. Contractor shall prepare an executive summary report. This report shall be provided to the Agency 30 days prior to the final end date of the Contract. The report shall include Contract results to date, status of all activities in progress and a transition plan that shall allow the

Agency to continue to operate the recovery program for pending demands and other outstanding issues.

9. Ad Hoc Reports

Agency may periodically require ad hoc reports of the Contractor that will lead to further potential recoveries by the Contractor as part of the contingency fee as stated in the contract. DMMA shall notify the Contractor of requested report content and submission timeframes.

The format for the report will be developed jointly by DMMA and the Contractor. All electronic reports and documents that are submitted by the RAC must be compatible with DMMA's current software.

Bidder submission requirements for Reporting:

Provide examples of reports produced for projects of the type, size, and scope of that described in the RFP.

F. Data/software/hardware requirements

The contractor must have the capacity to upload monthly Medicaid claims data from the MMIS. The contractor must bear all costs associated with this requirement. Contractor shall assume cost of hardware, software, electronic media and/or telecommunications requirements for the Agency's fiscal agent, solely as required by Contractor in the conduct of its work on this contract.

Bidder submission data/software/hardware requirements:

The bidder must describe how it will accomplish this and its ability to upload, maintain, and use MMIS data for the type of data mining and analysis required for this project.

The bidder must give an estimate of the time needed to implement initial uploads of MMIS claims data and to obtain the other information necessary for the reviews.

The bidder must also describe what other Medicaid systems support it can bring to this project, including whether it has access to external data sources for benchmarking and data modeling. The bidder must describe the type of data analysis it would use to identify potential overpayments that could result from provider activities as described in Item 1.

G. <u>HIPAA and Confidential Personal Information</u>

The contractor is expected to create and maintain a log capable of tracking privacy authorizations applicable to RAC activities. The selected vendor will comply with the standards of privacy set forth in CFR 431.300-306. The selected vendor will also know the HIPAA General Administrative Requirements of 42 CFR Part 160 and to comply with HIPAA's compliance and enforcement provisions. The selected vendor is expected to enter into a HIPAA business associate agreement with DMMA.

H. Internal quality assurance

The contractor shall have an internal quality control process that ensures that results of data analysis, data mining and audit activities are accurate, reliable and valid.

Bidder submission requirements:

The bidder must describe its internal quality control process that meets the requirements.

I. Provider Appeals

Providers will have no appeals on underpayments. The RAC will be responsible for the first two levels of the appeals on overpayments. The Medicaid Director of the RAC will be responsible for the second level of appeal. If the provider is still in disagreement after the second level of appeal, the provider will be notified of the rights available to them through DMMA. The contractor will be responsible for assuring DMMA receives all documents once the appeal has been transferred to DMMA:

- 1) On reviews, reconsideration of the appealed findings may be requested; and,
- 2) On audits where DMMA has accepted the audit and the provider still is not satisfied with findings, the provider may ask for an administrative hearing.

The contractor must provide data, as well as live witness testimony, at no cost for any investigation, appeal, or court proceedings emanating from a review of a Medicaid provider by the contractor.

J. Contractor Compensation Structure:

The Contractor shall submit a monthly invoice by the fifteenth (15) of each month to DMMA for activity in the previous calendar month. The invoice shall include:

- Overpayments Collected Identification of each case for which recovery
 of an overpayment has been obtained for the previous calendar month,
 the amount of the claim, the amount of the recovery, and the amount of
 the contingency fee. Overpayment amounts shall only be on this report if
 the amount has been collected from the Medicaid provider (in summary
 and detail);
- 2. Underpayments Identified and Paid to the Provider Identification of each case for which an underpayment was determined in the previous calendar month, the amount of the underpayment, and the amount of the contingency fee. Underpayment amounts shall only be on this report if the amount has been paid back to the provider by DMMA (in summary and detail).

- 3. The gross recovery amount (overpayments minus underpayments) must be itemized on each monthly bill. It was the intention of the federal government and DMMA that the contingency fee amount not be greater than the revenue generated from such reviews; therefore, the majority of the work shall be geared toward the identification and recovery of overpayments;
- 4. Total amount of payments received by the contractor from DMMA since the previous invoice;
- 5. Net amount due contractor as of the date of the invoice; and
- 6. The contract will not receive reimbursement for overpayments identified, only on the amounts actually collected from the Medicaid providers. The collection process can be delayed based on provider appeals.

The Contractor shall be paid a percentage of the actual overpayment recoveries, in addition to, and underpayment contingency fee based on amounts actually paid to a provider for each proceeding month. Actual recoveries are the overpayment amounts refunded to DMMA by the providers, whether by check or through a debit adjustment to their Medicaid reimbursement. If the provider is refunding the overpayment in installments, the Contractor fee will be based on the actual amounts paid as they are received by DMMA. The Contractor payments will only be based on overpayment amounts recovered plus contingency fees on underpayments discovered that are paid to a provider, not on overpayment or underpayments amount identified. Based on the percentage proposed by the Contractor and accepted by DMMA, DMMA will calculate the payment due the Contractor and will remit it to the Contractor on a monthly basis.

If the provider refuses to pay, collection will be handled through DMMA collections process. The Contractor will not be paid until actual funds are collected. On those claims that are process through DMMA's collection process, the Contractor will receive payment of half of the agreed upon contingency fee. If the provider chooses to pay back the recoupment through adjustments to his Medicaid reimbursement, this would be treated same as cash and payments to the contractor would be made based on the amount credited each month.

The contractor will not receive a contingency fee for claims that a Medicaid provider identifies as an overpayment to their company. These self identified claims should be referred to DMMA for review and a determination as to whether an overpayment actually occurred. If during the course of the RAC's review work a provider indentifies additional claims as potential overpayments these claims should not be referred to DMMA. The RAC will receive the contingency fee for any overpayments identified and collected as part of the RAC's claims that they identified for review.

Vendors are to propose their compensation rates using the Cost Proposal Form provide in Appendix F of this RFP. No other categories of costs will be considered

by DMMA. No additional fees or costs of any sort will be paid under this contract.

III. SPECIAL TERMS AND CONDITIONS

A. Length of Contract

Contract term is for two (2) years with the possibility of renewal for up to three (3) additional years contingent on funding and additional needs to be addressed.

B. Subcontractors

The use of subcontractors will be permitted for this project. If a subcontractor is going to be used, this needs to be specified in the proposal, with an identification of the proposed subcontractor, the service(s) to be provided, and its qualifications to provide such service(s). Subcontractors will be held to the same requirements as the primary contractor. The contract with the primary contractor will bind sub or co-contractors to the primary contractor by the terms, specifications, and standards of the RFP. All such terms, specifications, and standards shall preserve and protect the rights of the agency under the RFP and any subsequent proposals and contracts with respect to the services performed by the sub or co-contractor, so that the sub or co-contractor will not prejudice such rights. Nothing in the RFP shall create any contractual relation between any sub or co-contractor and the agency.

The proposed subcontractors must be approved by the Division of Medicaid and Medical Assistance.

C. Funding Disclaimer Clause

Delaware Health and Social Services reserves the right to reject or accept any bid or portion thereof, as may be necessary to meet the Department's funding limitations and processing constraints. The Department reserves the right to terminate any contractual agreement upon fifteen (15) calendar days written notice in the event the state determines that state or federal funds are no longer available to continue said contractual agreement.

D. Reserved Rights

Notwithstanding anything to the contrary, the Department reserves the right to:

- Reject any and all proposals received in response to this RFP;
- Select a proposal other than the one with the lowest cost;
- Waive or modify any information, irregularities, or inconsistencies in proposals received;
- Negotiate as to any aspect of the proposal with the bidder and negotiate with more than one bidder at a time;
- If negotiations fail to result in an agreement within two (2) weeks, the
 Department may terminate negotiations and select the most
 responsive bidder, prepare and release a new RFP, or take such other
 action as the Department may deem appropriate.

E. Termination Conditions

The Department may terminate the contract resulting from this RFP at any time that the vendor fails to carry out its provisions or to make substantial progress under the terms specified in this RFP and the resulting proposal.

Prior to taking the appropriate action as described in the contract, the Department will provide the vendor with thirty (30) days notice of conditions endangering performance. If after such notice the vendor fails to remedy the conditions contained in the notice, the Department shall issue the vendor an order to stop work immediately and deliver all work and work in progress to the State. The Department shall be obligated only for those services rendered and accepted prior to the date of notice of termination.

The Contract may be terminated in whole or part:

- a) by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance,
- b) by the Department upon fifteen (15) calendar days written notice of the loss of funding or reduction of funding for the stated Contractor services,

c) by either party without cause upon thirty (30) calendar days written notice to the other Party, unless a longer period is specified.

F. Contractor Monitoring/Evaluation

The contractor may be monitored/evaluated on-site on a regular basis. Failure of the contractor to cooperate with the monitoring/evaluation process or to resolve any problem(s) identified in the monitoring/evaluation may be cause for termination of the contract.

G. Payment:

The agencies involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

H. W-9 Information Submission

Effective January 5, 2009, a new vendor process and use of the new Delaware Substitute Form W-9 will be implemented by the Delaware Division of Accounting. With the development of the new Delaware Substitute Form W-9, state organizations will no longer be responsible for collecting the Form W-9 from vendors. The vendor will have the capability of submitting the required Form W-9 electronically and directly to the Delaware Division of Accounting for approval. The vendors will submit their Form W-9 by accessing this website,

http://accounting.delaware.gov/. The vendor will complete the secure form, read the affirmation, and submit the form by clicking the "Submit" button. Delaware Division of Accounting staff will review the submitted form for accuracy, completeness, and standardization. Once all the requirements are met, the form will be uploaded to the vendor file and approved. The vendor is then able to be paid for services provided.

For those vendors that do not have internet access, a printable version of the Delaware Substitute Form W-9 can be faxed or mailed to the vendor. Upon completion, the vendor will then fax or mail the form directly to the vendor staff at the Delaware Division of Accounting. All vendor requests, additions and changes, will come directly from the vendor. Questions for vendors who do not have internet access, contact vendor staff at (302) 734-6827.

This applies only to the successful bidder and should be done when successful contract negotiations are completed. It is not a required to be done as part of the submission of the bidder's proposal.

IV. FORMAT AND CONTENT OF RESPONSE

Proposals shall contain the following information, adhering to the order as shown:

A. Bidder's Signature Form

This form, found in the Appendix A, must be completed and signed by the bidder's authorized representative.

B. Title Page

The Title page shall include: 1) the RFP subject; 2) the name of the applicant; 3) the applicant's full address; 4) the applicant's telephone number; 5) the name and title of the designated contact person; and 6) bid opening date March 21, 2011, 11:00 a.m.

C. Table of Contents

The Table of Contents shall include a clear and complete identification of information presented by section and page number.

D. Confidential Information

The following items, if required in response to this RFP, are to be included in a separate section of your proposal and marked as confidential. These items are: 1) any financial information relating to the company or organization (not the RFP pricing or budget); 2) Resumes; 3) Organization Charts.

E. Qualifications and Experience

This section shall contain sufficient information to demonstrate experience and staff expertise to carry out the project. A statement must be included that the vendor either has or certifies he/she will secure a Delaware Business License prior to initiation of the project. Attach articles of incorporation and IRS certification of tax exempt status if applicable.

The specific individuals who will work on this project must be identified, along with the nature and extent of their involvement. The qualifications of these individuals shall be presented (in resumes or other formats). If conducting this project will require hiring of one or more individuals who are not currently employed by the bidding organization, applications shall provide detailed job descriptions, including required qualifications and experience.

If subcontractors are to be used, the proposal shall also contain similar information regarding each subcontractor.

F. Bidder References

phone of The names and numbers at least organizations/agencies for whom the vendor carried out a similar project must be included. If no similar project has been conducted, others requiring comparable skills can be used. The customer staff member offered for reference should be the highest-ranking staff member who has personal knowledge of the bidder's performance. The bidder should include a general narrative project description highlighting the bidder's responsibilities as the Prime Contractor, Subcontractor, or other role, as well as the dates and time period of the project. The original schedule and actual contract completion dates and an explanation of any variance shall be included.

Bidder shall list all contracts awarded to it or its predecessor firm(s) by the State of Delaware; during the last three years, by State Department, Division, Contact Person (with address/phone number), period of performance and amount. The Evaluation/Selection Review Committee will consider these additional references and may contact each of these sources. Information regarding bidder performance gathered from these sources may be included in the Committee's deliberations and factored in the final scoring of the bid. Failure to list any contract as required by this paragraph may be grounds for immediate rejection of the bid.

G. Proposed Methodology and Work Plan

This section shall describe in detail the approach that will be taken to carry out the activities described in the Scope of Services section of this RFP. Specific completion dates for the various tasks must be shown. The workplan shall outline specific objectives, activities and strategies, and resources. This section will also address the Requirements listed in Il Scope of Work.

H. Statements of Compliance

The bidder must include statements that the applicant agency complies with all Federal and Delaware laws and regulations pertaining to equal opportunity and affirmative action. In addition, compliance must be assured in regard to Federal and Delaware laws and regulations relating to confidentiality and individual and family privacy in health care delivery and in the collection and reporting of data. (See Appendix C)

I. Standard Contract

Appendix E is a copy of the standard boilerplate contract for the State of Delaware, Delaware of Health and Social Services, Division of Medicaid and Medical Assistance. This boilerplate will be the one used for any contract resulting from this Request for Proposal. If a bidder has an objection to any contract provisions or the RFP and its procurement provisions, objections shall be stated in the Transmittal Letter of the bidder's proposal.

V. BUDGET

As part of its cost proposal, the bidder must specify the percentage as its contingency fee for overpayments collected and underpayments processed (see Appendix F).

VI. GENERAL INSTRUCTIONS FOR SUBMISSION OF PROPOSALS

A. Number of Copies Required

Two (2) original **CDs** (Each Labeled as "Original") and six (6) **CD** copies (Each labeled as "Copy"). In addition, any required confidential financial or audit information relating to the company and not specifically to the proposal may be copied separately to three (3) additional CDs (Each labeled "Corporate Confidential Information"). All CD files shall be in PDF and Microsoft Word formats. Additional file formats (i.e. .xls, .mpp) may be required as requested.

It is the responsibility of the bidder to ensure all submitted CDs are machine readable, virus free and are otherwise error-free. CDs (or their

component files) not in this condition may be cause for the vendor to be disqualified from bidding.

Bidders will no longer be required to make hard copies of proposals <u>with</u> the exception that one copy of a Cover Letter along with one copy each of Appendices A, B, C, and D must be submitted in hardcopy with original signatures.

The responses to this RFP shall be submitted to:

BRUCE KRUG
Division of Management Services
Delaware Health and Social Services
Main Administration Building, Sullivan Street
Second Floor, Room 257
1901 North duPont Highway
New Castle, DE 19720

B. Closing Date

All responses must be received no later than March 21, 2011 at 11:00 a.m. Later submission will be cause for disqualification.

C. Notification of Acceptance

Notification of the Department's intent to enter into contract negotiations will be made in writing to all bidders.

D. Questions

All questions concerning this Request for Proposal must reference the pertinent RFP section(s) and page number(s). Questions must be in writing and can be either mailed, faxed, or emailed to:

Denise Dugan
Supervisor, Surveillance & Utilization Review Unit
Division of Medicaid and Medical Assistance
P.O. Box 906, Lewis Building
1901 North DuPont Highway
Phone: (302) 255-9646

FAX: (302) 255-4413

E-mail Address: denise.dugan@state.de.us

Deadline for submission of all questions is by close of business February 18, 2011. Written responses will be posted to the procurement website at http://bids.delaware.gov no later than February 28, 2011.

E. Amendments to Proposals

Amendments to proposals will not be accepted after the deadline for proposal submission has passed. The State reserves the right at any time to request clarification and/or further technical information from any or all applicants submitting proposals.

F. Proposals Become State Property

All proposals become the property of the State of Delaware and will not be returned to the bidders. The State will not divulge any information identified as confidential at the time of proposal submission <u>provided the</u> information resides solely on the CD (s) marked confidential.

G. Non-Interference Clause

The awarding of this contract and all aspects of the awarded bidders contractual obligations, projects, literature, books, manuals, and any other relevant materials and work will automatically become property of the State of Delaware. The awarded bidder will not in any manner interfere or retain any information in relationship to the contractual obligations of said contract, at the time of the award or in the future tense.

H. Investigation of Bidder's Qualifications

Delaware Health and Social Services may make such investigation as it deems necessary to determine the ability of the bidder to furnish the required services, and the bidder shall furnish such data as the Department may request for this purpose.

I. RFP and Final Contract

The contents of the RFP will be incorporated into the final contract and will become binding upon the successful bidder. If the bidder is unwilling to comply with any of the requirements, terms, and conditions of the RFP, objections must be clearly stated in the proposal. Objections will be

considered and may be subject to negotiation at the discretion of the state.

J. Proposal and Final Contract

The contents of each proposal will be considered binding on the bidder and subject to subsequent contract confirmation if selected. The contents of the successful proposal will be included by reference in the resulting contract.

All prices, terms, and conditions contained in the proposal will remain fixed and valid for 2 year(s) after proposal due date.

K. Cost of Proposal Preparation

All costs for proposal preparation will be borne by the bidder.

L. Proposed Timetable

The Department's proposed schedule for reviewing proposals is outlined as follows:

Activity	Date
RFP Advertisement	February 4, 2011
Questions Due	February 18, 2011
Answers to Questions	February 28, 2011
Bid Opening	March 21, 2011
Selection Process Begins	March 22, 2011
Vendor Selection (tentative)	April 7, 2011
Project Begins	May 7, 2011
Answers to Questions Bid Opening Selection Process Begins Vendor Selection (tentative)	February 28, 2011 March 21, 2011 March 22, 2011 April 7, 2011

M. Confidentiality and Debriefing

The Procurement Administrator shall examine the proposal to determine the validity of any written requests for nondisclosure of trade secrets and other proprietary data identified in conjunction with the Attorney General's Office. After award of the contract, all responses, documents, and materials submitted by the offeror pertaining to this RFP will be considered public information and will be made available for inspection, unless otherwise determined by the Director of Purchasing, under the laws of the State of Delaware. All data, documentation, and innovations developed as a result of these contractual services shall become the property of the State of Delaware. Based upon the public nature of these Professional Services (RFP) Proposals an offeror must inform the state in writing, of the exact materials in the offer which CANNOT be made a part of the public record in accordance with Delaware's Freedom of Information Act, Title 29, Chapter 100 of the Delaware Code.

If a bidder wishes to request a debriefing, he must submit a formal letter to the Procurement Administrator, Herman M. Holloway Campus, Delaware Health and Social Services Main Building, 2nd Floor, Room 257, 1901 N. Dupont Highway, New Castle, Delaware 19720 within 10 days after receipt of Notice of Award. The letter must specify reasons for the request.

VII. SELECTION PROCESS

All proposals submitted in response to this RFP will be reviewed by an evaluation team composed of representatives of the Division of Medicaid and Medical Assistance, Delaware Health and Social Services, and others as may be deemed appropriate by the Department. Each proposal will be independently reviewed and rated against review criteria. Selection will be based upon the recommendations of the review committee.

A. Proposal Evaluation Criteria

The vendor will be selected through open competition and based on the review of proposals submitted in response to this request for proposals. A technical review panel will review all proposals utilizing the following criteria. A maximum of 100 points is possible.

Category Weight

Meets mandatory RFP provisions
Bidder's signature form
Statement of Compliance
Certification Sheet
Office of Minority and Women Business Enterprise
Self-Certification Tracking Form

Pass/Fail

	Total:	100	
3.	Evaluation of the proposed costs as they relate to the proposed service delivery.	20	
	 a) services proposed fit needs as expressed in RFP b) proposed activities follow a logical sequence c) adequacy of workplan & timeline schedules d) workplan addresses all required elements 		
2.	Methodology Proposed	50	
	 a) Administrative Oversight b) Past experience in successfully completing audits of a similar type c) Quality Assurance Program details d) Available resources e) Staff credentials 		
٠.	Qualifications of vertical	00	

30

Upon selection of a vendor, a **Division of Medicaid and Medical Assistance** representative will enter into negotiations with the bidder to establish a contract.

B. Project Costs and Proposed Scope of Service

Qualifications of vendor

The Department reserves the right to award this project to a bidder other than the one with the lowest cost or to decide not to fund this project at all. Cost will be balanced against the score received by each bidder in the rating process. The State of Delaware reserves the right to reject, as technically unqualified, proposals that are unrealistically low if, in the judgment of the evaluation team, a lack of sufficient budgeted resources would jeopardize project success.

APPENDIX A:

BIDDERS SIGNATURE FORM



DELAWARE HEALTH AND SOCIAL SERVICES REQUEST FOR PROPOSAL

BIDDERS SIGNATURE FORM

NAME OF BIDDER:	
SIGNATURE OF AUTHORIZED PERSON:	
TYPE IN NAME OF AUTHORIZED PERSON:	
TITLE OF AUTHORIZED PERSON:	
Street name and number:	
CITY, STATE, & ZIP CODE:	
CONTACT PERSON:	
TELEPHONE NUMBER:	
FAX NUMBER:	
DATE:	
BIDDER'S FEDERAL EMPLOYERS IDENTIFICATION NUMBER:	
DELIVERY DAYS/COMPLETION TIME:	
F.O.B.:	
TERMS:	

THE FOLLOWING MUST BE COMPLETED BY THE VENDOR:

ITS RIGHTS, TITLE AND INTEREST IN AND TO ALL KNOWN OR UNKNOWN CAUSES OF ACTION IT PRESENTLY HAS OR MAY NOW HEREAFTER ACQUIRE UNDER THE ANTITRUST LAWS OF THE UNITED STATES AND THE STATE OF DELAWARE, RELATING THE PARTICULAR GOODS OR SERVICES PURCHASED OR ACQUIRED BY THE DELAWARE HEALTH AND SOCIAL SERVICES DEPARTMENT, PURSUANT TO THIS CONTRACT.

APPENDIX B:

CERTIFICATION SHEET



DELAWARE HEALTH AND SOCIAL SERVICES REQUEST FOR PROPOSAL

CERTIFICATION SHEET

As the official representative for the proposer, I certify on behalf of the agency that:

- a. They are a regular dealer in the services being procured.
- b. They have the ability to fulfill all requirements specified for development within this RFP.
- c. They have independently determined their prices.
- d. They are accurately representing their type of business and affiliations.
- e. They will secure a Delaware Business License.
- f. They have acknowledged that no contingency fees have been paid to obtain award of this contract.
- g. The Prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other contractor or with any competitor;
- h. Unless otherwise required by Law, the prices which have been quoted in this offer have not been knowingly disclosed by the contractor and prior to the award in the case of a negotiated procurement, directly or indirectly to any other contractor or to any competitor; and
- i. No attempt has been made or will be made by the contractor in part to other persons or firm to submit or not to submit an offer for the purpose of restricting competition.
- j. They have not employed or retained any company or person (other than a full-time bona fide employee working solely for the contractor) to solicit or

	company or person (other than a full-time bona fide employee working solely for the contractor) any fee, commission percentage or brokerage fee contingent upon or resulting from the award of this contract.
k.	They (check one) operatean individual;a Partnershipa non-profit (501 C-3) organization;a not-for-profit organization; orfor profit corporation, incorporated under the laws of the State of
l.	The referenced offerer has neither directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to Delaware Health and Social Services.
m.	The referenced bidder agrees that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this invitation to bid including all Specifications and special provisions.
n.	They (check one):are;are not owned or controlled by a parent company. If owned or controlled by a parent company, enter name and address of parent company:

Violations and Penalties:

Each contract entered into by an agency for professional services shall contain a prohibition against contingency fees as follows:

- The firm offering professional services swears that it has not employed or retained any company or person working primarily for the firm offering professional services, to solicit or secure this agreement by improperly influencing the agency or any of its employees in the professional service procurement process.
- 2. The firm offering the professional services has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working primarily for the firm offering professional services, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this agreement; and

3. For the violation of this provision, the agency shall have the right to terminate the agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

The following conditions are understood and agreed to:

- a. No charges, other than those specified in the cost proposal, are to be levied upon the State as a result of a contract.
- b. The State will have exclusive ownership of all products of this contract unless mutually agreed to in writing at the time a binding contract is executed.

Date	Signature & Title of Official Representative
	Type Name of Official Representative

APPENDIX C

STATEMENTS OF COMPLIANCE FORM



DELAWARE HEALTH AND SOCIAL SERVICES REQUEST FOR PROPOSAL

STATEMENTS OF COMPLIANCE FORM

As the official representative for the contractor, I certify on behalf of the age that (Company Name) will comply with all Fed	
and Delaware laws and regulations pertaining to equal employmonoportunity and affirmative action. In addition, compliance will be assure regard to Federal and Delaware laws and regulations relating to confidential and individual and family privacy in the collection and reporting of data.	nen d ir
Authorized Signature:	
Title:	
Date:	

APPENDIX D

OFFICE OF MINORITY AND WOMEN BUSINESS ENTERPRISE SELF-CERTIFICATION TRACKING FORM



OFFICE OF MINORITY AND WOMEN BUSINESS ENTERPRISE SELF-

CERTIFICATION TRACKING FORM
IF YOUR FIRM WISHES TO BE CONSIDERED FOR ONE OF THE CLASSIFICATIONS LISTED BELOW, THIS PAGE MUST BE SIGNED, NOTARIZED AND RETURNED WITH YOUR PROPOSAL.

COMPANY NAME			
NAME OF AUTHORIZED	REPRESENTATIVE (Please	e print)	
FAX #			
EMAIL ADDRESS			
FEDERAL EI#			
STATE OF DE BUSINESS	LIC#		
Note: Signature of the auth	Note: Signature of the authorized representative must be of an individual who legally may enter		
his/her organization into a f	ormal contract with the State	of Delaware, Delaware Health and	
Social Services.			
Organization Classifications	(Please circle)		
Women Business Enterprise	e (WBE) Yes/No		
Minority Business Enterpris			
Please check oneCorpora	tion		
PartnershipIndividu			
For appropriate certification	(WBE), (MBE), please apply	y to Office of Minority and Women	
Business Enterprise Phone # (302) 739-4206 L. Jay Burks, Executive Director Fax# (302) 739-			
1965 Certification # Certifying Agency			
http://www.state.de.us/omwbe			
SWORN TO AND SUBSCRIBED B	EFORE ME THISDA	AY OF20	
NOTARY PUBLIC	MY COMMISION EXPI	RES	
CITY OF	COUNTY OF	STATE OF	

Definitions

The following definitions are from the State Office of Minority and Women Business Enterprise.

Women Owned Business Enterprise (WBE):

At least 51% is owned by women, or in the case of a publicly owned enterprise, a business enterprise in which at least 51% of the voting stock is owned by women; or any business enterprise that is approved or certified as such for purposes of participation in contracts subject to women-owned business enterprise requirements involving federal programs and federal funds.

Minority Business Enterprise (MBE):

At least 51% is owned by minority group members; or in the case of a publicly owned enterprise, a business enterprise in which at least 51% of the voting stock is owned by minority group members; or any business enterprise that is approved or certified as such for purposes of participation in contracts subjects to minority business enterprises requirements involving federal programs and federal funds.

Corporation:

An artificial legal entity treated as an individual, having rights and liabilities distinct from those of the persons of its members, and vested with the capacity to transact business, within the limits of the powers granted by law to the entity.

Partnership:

An agreement under which two or more persons agree to carry on a business, sharing in the profit or losses, but each liable for losses to the extent of his or her personal assets.

Individual:

Self-explanatory

For certification in one of above, the bidder must contract: L. Jay Burks Office of Minority and Women Business Enterprise (302) 739-4206 Fax (302) 739-5561

APPENDIX E

Contract Boilerplate



DPH CONTRACT # _____ BETWEEN [DIVISION NAME HERE] DELAWARE DEPARTMENT OF HEALTH & SOCIAL SERVICES, AND [Contractor] FOR [TYPE OF SERVICE]

A. Introduction

1.	This contract is entered into l	between the D	elaware	Department	of He	ealth and	Socia
	Services (the Department),	, Division	of		(Division) and
	(th	e Contractor).					
2.	The Contract shall commence of unless specifically extended by a						

B. Administrative Requirements

and

- 1. Contractor recognizes that it is operating as an independent Contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Contractor's negligent performance under this Contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Contractor in their negligent performance under this Contract.
- 2. The Contractor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The Contractor is an independent contractor and is not an employee of the State.
- 3. During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:
 - a) Comprehensive General Liability \$1,000,000

b) Medical/Professional Liability \$1,000,000/\$3,000,000

or c) Misc. Errors and Omissions \$1,000,000/\$3,000,000

or d) Product Liability \$1,000,000/\$3,000,000

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

e) Automotive Liability (Bodily Injury) \$100,000/\$300,000 f) Automotive Property Damage (to others) \$25,000

- 4. Not withstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others for damages because of bodily injury, including death, that may result from the Contractor's negligent performance under this Contract, and any other liability for damages for which the Contractor is required to indemnify the State, the Department and the Division under any provision of this Contract.
- 5. The policies required under Paragraph B. 3. must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.
- 6. The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in Paragraph A. 2.
- 7. The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.
- 8. The Contractor agrees to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Contract, to assure the

quality of services provided under this Contract. The Contractor shall immediately notify the Department in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, the Contractor understands that such action may be grounds for termination of the Contract.

a) If a contractor is under the regulation of any Department entity and has been assessed Civil Money Penalties (CMPs), or a court has entered a civil judgment against a Contractor or vendor in a case in which DHSS or its agencies was a party, the Contractor or vendor is excluded from other DHSS contractual opportunities or is at risk of contract termination in whole, or in part, until penalties are paid in full or the entity is participating in a corrective action plan approved by the Department.

A corrective action plan must be submitted in writing and must respond to findings of non-compliance with Federal, State, and Department requirements. Corrective action plans must include timeframes for correcting deficiencies and must be approved, in writing, by the Department.

The Contractor will be afforded a thirty (30) day period to cure non-compliance with Section 8(a). If, in the sole judgment of the Department, the Contractor has not made satisfactory progress in curing the infraction(s) within the aforementioned thirty (30) days, then the Department may immediately terminate any and/or all active contracts.

- 9. Contractor agrees to comply with all the terms, requirements and provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and any other federal, state, local or any other anti discriminatory act, law, statute, regulation or policy along with all amendments and revision of these laws, in the performance of this Contract and will not discriminate against any applicant or employee or service recipient because of race, creed, religion, age, sex, color, national or ethnic origin, disability or any other unlawful discriminatory basis or criteria.
- 10. The Contractor agrees to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population served under this Contract by race, color, national origin or disability.
- 11. This Contract may be terminated in whole or part:
 - a) by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance,
 - b) by the Department upon fifteen (15) calendar days written notice of the loss of funding or reduction of funding for the stated Contractor services as described in Appendix B,

c) by either party without cause upon thirty (30) calendar days written notice to the other Party, unless a longer period is specified in Appendix A.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, models, maps, photographs, and reports or other material prepared by Contractor under this contract shall, at the option of the Department, become the property of the Department.

In the event of termination, the Contractor, upon receiving the termination notice, shall immediately cease work and refrain from purchasing contract related items unless otherwise instructed by the Department.

The Contractor shall be entitled to receive reasonable compensation as determined by the Department in its sole discretion for any satisfactory work completed on such documents and other materials that are usable to the Department. Whether such work is satisfactory and usable is determined by the Department in its sole discretion.

Should the Contractor cease conducting business, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets, or shall avail itself of, or become subject to any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors, then at the option of the Department, this Contract shall terminate and be of no further force and effect. Contractor shall notify the Department immediately of such events.

12. Any notice required or permitted under this Contract shall be effective upon receipt and may be hand delivered with receipt requested or by registered or certified mail with return receipt requested to the addresses listed below. Either Party may change its address for notices and official formal correspondence upon five (5) days written notice to the other.

To the Division at:

Division name here address address Attn:

the (Contracto	or at:		

- 13. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Contract, the remainder of the Contract will remain unaffected.
- 14. This Contract shall not be altered, changed, modified or amended except by written consent of all Parties to the Contract.
- 15. The Contractor shall not enter into any subcontract for any portion of the services covered by this Contract without obtaining prior written approval of the Department. Any such subcontract shall be subject to all the conditions and provisions of this Contract. The approval requirements of this paragraph do not extend to the purchase of articles, supplies, equipment, rentals, leases and other day-to-day operational expenses in support of staff or facilities providing the services covered by this Contract.
- 16. This entire Contract between the Contractor and the Department is composed of these several pages and the attached Appendix ____.
- 17. This Contract shall be interpreted and any disputes resolved according to the Laws of the State of Delaware. Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Department and Contractor arising out of or relating to this Contract or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State of Delaware.
- 18. In the event Contractor is successful in an action under the antitrust laws of the United States and/or the State of Delaware against a vendor, supplier, subcontractor, or other party who provides particular goods or services to the Contractor that impact the budget for this Contract, Contractor agrees to reimburse the State of Delaware, Department of Health and Social Services for the pro-rata portion of the damages awarded that are attributable to the goods or services used by the Contractor to fulfill the requirements of this Contract. In the event Contractor refuses or neglects after reasonable written notice by the Department to bring such antitrust action, Contractor shall be deemed to have assigned such action to the Department.
- 19. Contractor covenants that it presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the performance of this Contract. Contractor further covenants that in the performance of this contract, it shall not employ any person having such interest.
- 20. Contractor covenants that it has not employed or retained any company or person who is working primarily for the Contractor, to solicit or secure this agreement, by improperly influencing the Department or any of its employees in any professional procurement process; and, the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the

violation of this provision, the Department shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

21. The Department shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract. Contractor shall have no right to copyright any material produced in whole or in part under this Contract. Upon the request of the Department, the Contractor shall execute additional documents as are required to assure the transfer of such copyrights to the Department.

If the use of any services or deliverables is prohibited by court action based on a U.S. patent or copyright infringement claim, Contractor shall, at its own expense, buy for the Department the right to continue using the services or deliverables or modify or replace the product with no material loss in use, at the option of the Department.

- 22. Contractor agrees that no information obtained pursuant to this Contract may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the Contractor's obligations under this Contract.
- 23. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by authorized representatives of all parties and attached to the original Contract.
- 24. If the amount of this contract listed in Paragraph C2 is over \$25,000, the Contractor, by their signature in Section E, is representing that the Firm and/or its Principals, along with its subcontractors and assignees under this agreement, are not currently subject to either suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

C. Financial Requirements

1. The rights and obligations of each Party to this Contract are not effective and no Party is bound by the terms of this contract unless, and until, a validly executed Purchase Order is approved by the Secretary of Finance and received by Contractor, *if required by the State of Delaware Budget and Accounting Manual*, and all policies and procedures of the Department of Finance have been met. The obligations of the Department under this Contract are expressly limited to the amount of any approved Purchase Order. The State will not be liable for expenditures made or services delivered prior to Contractor's receipt of the Purchase Order.

2.	Total payments under this	Contract shall not exceed \$	in accordance with the budget
	presented in Appendix	Payment will be made upon rece	eipt of an itemized invoice from

the Contractor in accordance with the payment schedule, if any. The contractor or vendor must accept full payment by procurement (credit) card and or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions. Contractor is responsible for costs incurred in excess of the total cost of this Contract and the Department is not responsible for such costs.

- 3. The Contractor is solely responsible for the payment of all amounts due to all subcontractors and suppliers of goods, materials or services which may have been acquired by or provided to the Contractor in the performance of this contract. The Department is not responsible for the payment of such subcontractors or suppliers.
- 4. The Contractor shall not assign the Contract or any portion thereof without prior written approval of the Department and subject to such conditions and revisions as the Department may deem necessary. No such approval by the Department of any assignment shall be deemed to provide for the incurrence of any obligations of the Department in addition to the total agreed upon price of the Contract.
- 5. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under this Contract in accordance with generally accepted accounting principles and practices. Contractor shall also maintain the financial information and data used by Contractor in the preparation of support of its bid or proposal. Contractor shall retain this information for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Department shall have access to such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.
- 6. The Contractor agrees that any submission by or on behalf of the Contractor of any claim for payment by the Department shall constitute certification by the Contractor that the services or items for which payment is claimed were actually rendered by the Contractor or its agents, and that all information submitted in support of the claims is true, accurate, and complete.
- 7. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the Department for disallowances shall be drawn from the Contractor's own resources and not charged to Contract costs or cost pools indirectly charging Contract costs.
- 8. When the Department desires any addition or deletion to the deliverables or a change in the services to be provided under this Contract, it shall so notify the Contractor. The Department will develop a Contract Amendment authorizing said change. The Amendment shall state whether the change shall cause an alteration in the price or time required by the Contractor for any aspect of its performance under the Contract. Pricing of changes shall be consistent with those prices or costs established within this Contract. Such amendment shall not be effective until executed by all Parties pursuant to Paragraph B.14.

D. Miscellaneous Requirements

- 1. If applicable, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 46, (PM # 46, effective 3/11/05), and divisional procedures regarding the reporting and investigation of suspected abuse, neglect, mistreatment, misappropriation of property and significant injury of residents/clients receiving services, including providing testimony at any administrative proceedings arising from such investigations. The policy and procedures are included as Appendix ______ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the position(s) responsible for the PM46 process in the provider agency. Documentation of staff training on PM46 must be maintained by the Contractor.
- 2. The Contractor, including its parent company and its subsidiaries, and any subcontractor, including its parent company and subsidiaries, agree to comply with the provisions of 29 <u>Del. Code</u>, Chapter 58: "Laws Regulating the Conduct of Officers and Employees of the State," and in particular with Section 5805 (d): "Post Employment Restrictions."
- 3. When required by Law, Contractor shall conduct child abuse and adult abuse registry checks and obtain service letters in accordance with 19 <u>Del. Code</u> Section 708; and 11 <u>Del. Code</u>, Sections 8563 and 8564. Contractor shall not employ individuals with adverse registry findings in the performance of this contract.
- 4. If applicable, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 40, and divisional procedures regarding conducting criminal background checks and handling adverse findings of the criminal background checks. This policy and procedure are included as Appendix _____ to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the title of the position(s) responsible for the PM40 process in the contractor's agency.
- 5. If applicable, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 36 (PM #36, effective 9/24/2008), and divisional procedures regarding minimal requirements of contractors who are engaging in a contractual agreement to develop community based residential arrangements for those individuals served by Divisions within DHSS. This policy and procedure are included as Appendix _____ to this Contract. It is understood that adherence to this policy includes individuals/entities that enter into a contractual arrangement (contractors) with the DHSS/Division to develop a community based residential home(s) and apartment(s). Contractors shall be responsible for their subcontractors' adherence with this policy and related protocol(s) established by the applicable Division.

5. All Department campuses are tobacco-free. Contractors, their employees and sub-contractors are prohibited from using any tobacco products while on Department property. This prohibition extends to personal vehicles parked in Department parking lots.

E. <u>Authorized Signatures:</u>	
For the Contractor:	For the Department:
Signature	Rita M. Landgraf Secretary
Name (please print)	
Title	Date
Date	For the Division:
	[Authorized Division Name Here]
	Date

CONTRACT APPENDIX A

DIVISION OF MEDICAID & MEDICAL ASSISTANCE REQUIREMENTS

- 1. Funds received and expended under the contract must be recorded so as to permit the Division to audit and account for all contract expenditures in conformity with the terms, conditions, and provisions of this contract, and with all pertinent federal and state laws and regulations. The Division retains the right to approve this accounting system.
- 2. The Contractor shall recognize that no extra contractual services are approved unless specifically authorized in writing by the Division. Further, the Contractor shall recognize that any and all services performed outside the scope covered by this Contract and attached budgets will be deemed by the Division to be gratuitous and not subject to any financial reimbursement.
- 3. All products are expected to be free of misspellings and typos, as well as punctuation, grammatical and design errors. Acronyms should be avoided; when used, they should be spelled out on first reference with the acronym in parentheses after that reference. For example, 'Division of Social Services (DSS)' on first reference.
- 4. No part of any funds under this contract shall be used to pay the salary or expenses of any contractor or agent acting for the contractor, to engage in any activity (lobbying) designed to influence legislation or appropriations pending before the State Legislature and/or Congress.
- 5. The contractor agrees that, if defunding occurs, all equipment purchased with Division funds for \$1,000.00 or more and a useful life expectancy of one (1) year, will be returned to the Division within thirty (30) days.
- 6. Contractors receiving Federal funds must comply with all the requirements of the Federal Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Non-profit Organizations.

CONTRACT APPENDIX B

SERVICE AND BUDGET DESCRIPTION

1.	Contractor:
	Address:
	
	Phone
	E.I. No.:
2.	Division:
3.	Service:
4.	Total Payment shall not exceed
5.	Payment(s) will be made upon presentation of invoice(s) with supporting documentation that verifies the completed, acceptable deliverable(s). Invoice must contain period of service Vendor Invoice Number, Vendor EI Number, Contract Number, Division Purchase Orde Number and itemized description of the services provided to coincide with the contract deliverables. (See also Paragraph C.2. of the contract)
6.	Source of Contract Funding:
	Federal Funds (CFDA#)
	State Funds
	Other Funds
	Combination of Funds

APPENDIX F

COST PROPOSAL FORM

Cost Proposal Form

Instructions:

Vendors are to complete this Cost Proposal Form, Appendix F, according to these instructions, sign it, and submit it fully and completed as the separate sealed cost proposal. The contingency percentage rate offered in the vendor's Cost Proposal will be the compensatory percentage rate based only on overpayment amounts collected and underpayments identified and paid to the provider pursuant to Section J, Payment, in this RFP (for all state fiscal years) throughout the contract period as described in this RFP. Vendors are to use the format in Appendix F, Cost Proposal Form, to submit their firm, fixed, all-inclusive compensatory percentage rate that covers all fiscal years. At the vendor's discretion, additional documentation may also be included with the completed Appendix F, as explanatory information, but when making the vendor selections and when executing the contract, DMMA will consider only the percentage rate displayed on the Cost Proposal Form.

The selected vendor will be compensated as described in Section J of the RFP and their proposed and accepted percentage rate which shall not exceed 12.5%. Vendors that submit cost proposals which exceed the maximum contingency fee percentage of 12.5% shall be disqualified from further consideration of any resulting contract. The proposed percentage rate shall represent the entire cost the vendor offers for the full and successful completion of all deliverables for that respective contract year.

Vendors are to use their business expertise in pricing the work described in this RFP, taking into consideration any intervening steps or activities that must be performed in order to complete the work and offer their rates accordingly, even if DMMA does not explicitly identify those intervening costs in this RFP. No separate travel expenses or any other type of expenses will be paid under the contract to result from this RPF.

Contingency Fee Percentage Rate: (Not to Exceed 12.5%)

Vendor's Proposed Percentage:	
(for the contract term and any potential	
renewals)	
	%

Affirmation: The percentage rate as delineated above is firm for the duration of the proposed contract period, and I, the undersigned, have authority to bind the contractor to the Cost Proposal.

Name (Signature) and Title	Date of Signature